



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/766,684
First Named Inventor : Nabil L. Muhanna
Filing Date : January 28, 2004
Title : ARTIFICIAL INTERVERTEBRAL DISC
Group Art Unit : 3738
Examiner : Bruce Edward Snow
Confirmation No. : 2069

DECLARATION UNDER 37 C.F.R. § 1.131

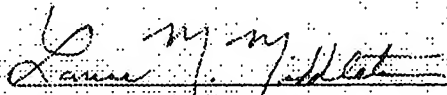
I, Lance M. Middleton, hereby declare the following:

1. I am one of the co-inventors in the above-identified U.S. Application No. 10/766,684 filed January 28, 2004.
2. The subject matter claimed in the above-identified application was conceived by me and my co-inventor, Nabil Muhanna, in the United States of America prior to April 12, 2002. Our conception is evidenced by the CAD drawings attached hereto as **Exhibits A-D**, which were created by me prior to April 12, 2002.
3. The subject matter claimed in the above-identified application was reduced to practice in the United States of America prior to April 12, 2002. This reduction to practice is evidenced by the photographs attached hereto as **Exhibits E-I**. The photographs accurately depict an actual prototype of an artificial intervertebral disc that was created

under my direction prior to April 12, 2002. I inspected the prototype prior to April 12, 2002, and believed, based on its physical properties, including its size and shape, that it would work for its intended purpose as an artificial intervertebral disc. The photographs attached hereto as **Exhibits E-I** were taken recently by me in connection with the preparation of this declaration, but the prototype depicted in the photographs was created prior to April 12, 2002.

4. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed on the 7th day of September, 2007, in Soddy Daisy, Tennessee.


Lance M. Middleton